EXPLORING CRIME

Readings in Criminology and Criminal Justice

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PREFACE

In developing *Exploring Crime: Readings in Criminology and Criminal Justice,* I have sought informative, provocative selections that provide a sense of the complexity of crime in America. I have also chosen readings that can be easily understood by nonprofessionals. This book is intended for use in criminology and criminal justice courses at both introductory and more advanced levels. With a few exceptions, the articles are current and reflect the type of work that is now shaping the study of crime and criminal justice.

No two instructors design their courses in precisely the same manner. Hence, I have tried to give users of this reader many options. If instructors so choose, they can work through the several self-contained sections of the book in order. Or, given the number and diversity of the readings, instructors can easily adapt them to nearly any course outline.

A basic theme uniting all the selections is that crime must be understood as a "social problem." Social conditions become "problems" for society when they are defined as such by significant numbers of people. The public perception need not be accurate, but the fear it generates is real. The social construction of perceptions and fears—the sources of ideas about crime, its causes, the likelihood of victimization—is itself a complex and exciting topic for study. Beyond this—and equally exciting and complex—is the issue of how people respond to these perceptions of crime as a major social problem. People base anticrime policy decisions on perceptions and fears. Some decisions involve organizing one's personal life to minimize the chances of being a crime victim: buying a gun, barring windows, and so forth. Other decisions concern the citizen's involvement in legal and political responses to crime. Few governmental decisions can forego at least tacit public (or concerned interest group) approval. Directly or indirectly, the public approves or disapproves the spending of the tax dollar on crime-control programs. More importantly, the public explicitly or implicitly condones or condemns crime-control measures that limit such individual rights as protection from unlawful search and from self-incrimination. Thus, whether at the personal or governmental level, decisions about potential crime solutions carry important consequences. The accuracy of the perceptions that inform such decisions obviously is important.

The readings in this book address both the construction and the accuracy of public perceptions about crime. They describe the influence of major interest groups and the criminal justice system upon perceptions of our "crime problem." They explore the different messages about crime we receive from different types of crime statistics. They cover much that likely is misunderstood by the public regarding predatory, vice, organized, and white-collar crime. Finally, the readings explore numerous elements of the "fight against crime"—incapacitation policy, capital punishment and gun control, and corrections.

The selections in Part One, "Structuring a

'Crime Problem'," should foster in readers a healthy skepticism regarding the origins and uses of law. In chapter 1 Coleman locates the passage and enforcement of antitrust legislation in the conflicting economic and political interests of various powerful groups in this society. Katz and Abel point to the economic and political interests of the "treatment" professions when criminal-justice policy is based on biological explanations of criminal behavior. Kamisar identifies the source of the exclusionary rule as the inherent conflict between citizenry and the state police.

Chapter 2 describes public opinion about crime, its seriousness, and its victims. The role of the media in structuring the public's notions of how frequently various offenses occur is explored by Sheley and Ashkins. Other issues examined in chapter 2 include citizens' perceptions of the relative wrongfulness of various offenses and the public perception of the elderly as particularly victimized by crime.

Chapter 3 examines problems with official police statistics, the most commonly used indicator of crime levels in this society. In the first article in this chapter, the image of criminal activity produced by these statistics is contrasted with that produced by the other major source of crime information, the victimization survey. In the second article, Williams demonstrates how victims' decisions to report rapes structure this aspect of the "crime problem." Finally, Sheley and Hanlon show how police decisions actively to enforce laws can have unintended effects on the overall picture of crime in a community.

Part Two, "Criminal Behavior," reports on various forms of crime. The public traditionally has been worried about three forms of crime: predatory, vice, and organized crime. A fourth form—"respectable" or white-collar crime—has captured public attention more recently. It is of course predatory crime—homicides, rapes, robberies, burglaries—that causes the American citizen the greatest fear. The Department of Justice report included in chapter 4, "Predatory Crime," summarizes much that is and is not known about offenders. Countering these profiles is Luckenbill's article showing homicide to be not so much an event shaped by "crime-prone" individuals as a product of highly charged, emergent social situations.

Myths and facts about the relation of drugs to crime, pornography to aggression, and prostitution to the system that polices it are explored in chapter 5, "Vice Crime." Similar issues are raised in regard to organized crime in chapter 6. Of particular interest in this chapter, especially as demonstrated in Albanese's article, is the link between organized crime and the economy, a link that blurs the distinction between criminal activities and legitimate corporate practices.

The notion of the legitimacy of corporate practices is carried over into chapter 7, " 'Respectable' Crime". As the readings in this section suggest, the terms *white-collar crime* and *respectable crime* apply to many behaviors. Depending upon context and speaker, *white-collar crime* may refer to corporate crime, such as price fixing; to occupationally related illegal personal gain through such activities as embezzlement or medicare swindles by physicians; to illegal activity by public officeholders; or simply to any crime committed by a person generally considered a member of the middle or upper classes. The selections included in chapter 7 concern corporate and medical wrongdoing.

Chapter 8 presents various explanations of criminal behavior. The popular notion of a relation between genetics and criminal activity is examined by Ellis. Braithwaite reviews the evidence linking social class and criminality. Sheley introduces a framework of elements necessary to any explanation of criminal behavior.

The book concludes with Part Three, "Combating Crime," which reviews the multidimensional notion of crime prevention and correction of offenders. Articles in chapters 9 through 11 address such important issues as the uses of selective incapacitation of offenders, problems associated with capital punishment and gun control, and the real potential of community-based correction programs. In all, the articles in Part Three indicate clearly that no aspect of the "crime problem" is simple. The

dimensions of crime are complicated; its correlates are difficult to identify; its causes are puzzling. We cannot, then, address crime with simple solutions.

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Joseph F. Sheley

CONTENTS

PART ONE

Structuring a "Crime Problem"

According to public opinion polls, most Americans feel that our society has a serious crime problem. The majority of those expressing such sentiments have not themselves been the victims of violent crimes but have come to consider such crimes rampant in this society. This perception of crime as a social problem is the product of various bits of information that the individual receives from others. Some of this input is provided by relatives and friends, but most of it comes from more impersonal sources. Our commonly held beliefs about crime are based on what we are told by groups trying to influence legislation, by political office seekers, by the media, and by those who publish official crime statistics.

In this sense, our "crime problem" is socially constructed. That is, no matter what the actual number of crimes committed in this society, how we feel about crime is a matter of the information we receive about it. Our perceptions of crime as a social problem are constructed by various social actors—police compiling crime statistics or reporters choosing the crimes they will cover, for example—who create pictures of crime that, to one degree or another, we assimilate. In Part One of this book we explore this phenomenon by examining the making of laws, the formation of public opinion about crime, and the construction of crime statistics.

Making Laws

At first glance, the reason we call certain acts and certain people "criminal" seems simple: crimes are acts that pose a threat to society, and criminals are people who commit such acts. But crime and criminals are not so neatly defined. To make this clear, we turn to the *conflict perspective,* which emphasizes three themes: (1) the relativity of criminal definitions, (2) the control of major social institutions as a factor in determining criminal definitions, and (3) the definition of law (legislation and enforcement) as an instrument of power.

The Relativity of Criminal Definitions

The conflict perspective basically argues that no act or individual is intrinsically moral or immoral, criminal or noncriminal. If an act or a person is labeled criminal, there is an underlying reason; such definitions serve some interests within society. If these labels are tied to interests, then they are subject to change as interests change. Thus, every definition of an act as immoral, deviant, or criminal—or as acceptable—must be viewed as tentative, always subject to redefinition.

Prime examples of the definition-redefinition process are seen in our perpetually changing

attitudes, laws, and law-enforcement patterns concerning "vices." Several states recently have decriminalized certain sexual acts between consenting adults. At one time, possession of marijuana was legal in this country; currently it is not, and the question of legalization is under debate. Abortion, once illegal, has been given new legal definitions that are challenged constantly. Gambling once was illegal in Atlantic City, New Jersey; it is legal now. Prostitution is legal in certain counties in Nevada but outlawed in all other states. Being the customer of a prostitute likewise is legal in some states but not in others. For all of these acts, we may wonder which definition reflects their "true" quality or nature: evil (illegal) or good (legal). In practice, we must treat current meanings as "truth," for they are the meanings employed in a court of law. From a conflict perspective, however, we soon realize that nothing is inherently sacred or sacrilegious; all definitions are subject to change.

Whether or not universally accepted, a criminal definition almost certainly has its origins in the protection of some power group's interests. And the definition certainly need not be permanent. Radical structural changes such as those created by a severe famine or cultural changes like those fomented in Nazi Germany in the 1930s could cause changes in the value placed on human life. Even definitions of homicide currently are being negotiated. Continual legislative and courtroom debates over the criminal status of abortion and euthanasia are, at base, debates about the limits of acceptable life-taking versus criminal homicide. The same holds true for the issue of capital punishment.

Control of Institutions

Conflict theorists argue that there are three basic means of maintaining and enhancing interests in a society: force, compromise, and dominance of social institutions. Force is the least desirable, for it calls attention directly to interest preservation and basically dares others to summon enough counterforce to alter the power structure. Compromise is preferred, since all parties involved somehow benefit. Concessions bear witness to the absense of absolute power in the hands of any one interest group. Yet compromise, though preferable to force, still carries liabilities. It points up the weaknesses of certain parties and encourages others to organize further to exploit those weaknesses.

The strongest mechanism for gaining or holding power is dominance of social institutions. Contol of such institutions as the law, religion, education, government, economics, and science means control of the world views of members of the society, especially regarding questions of interests and power. With respect to the problem of crime and criminals, control of legal institutions means that more powerful groups gain legal support for their interests by outlawing behavior and attitudes that threaten them or by focusing attention away from their own wrongdoings. Control of other institutions, such as religion and education, allows the more powerful to promote their own interests by shaping the opinions of the less powerful concerning the legitimacy of the economic, political, and legal status quo. For example, an examination of elementary and secondary school textbooks indicates how rarely serious questions are raised concerning the unequal distribution of wealth and power in this society.

Law As an Instrument of Power

Conflict theorists view law as an instrument of control. Whoever owns the law owns power. Those who own it fight to keep it; those who want it fight to get it. Indeed, rather than simply reducing conflict, law produces conflict as well, by virtue of its status as a resource to be won by some combatants and lost by others. This point is illustrated by the importance given to nominations of Supreme Court justices. Presidents attempt to fill court vacancies with persons sympathetic to their views, that is, persons more likely to decide cases in a manner protecting the

interests of a given president and the parties that president represents.

The value of law as an instrument of power needs almost no explanation. Control of the legal order represents the ability to use specified agents of force to protect one's interests. Control of the law helps those in power determine social values and cultural content; law grants legitimation to "right" views of the world and denies legitimation to "wrong" views. In short, laws that forbid particular behaviors and make others mandatory are passed by legislators who have gained office through the support of various interest groups. The ability to have one's interests translated into public policy is a primary indicator of power.

The three articles presented in chapter 1, "Making Laws," focus on themes emphasized by the conflict perspective. In "Law and Power: The Sherman Antitrust Act and Its Enforcement in the Petroleum Industry," James Coleman explores the roles of powerful interest groups in shaping a particular law. He finds that the passage of the Sherman Antitrust Act represented a defeat of powerful corporate petroleum interests by a number of groups representing other interests. However, in terms of enforcement of the act in the years since its passage, Coleman reports that the corporate elite's interests have found favor more often than have those of the plurality of forces opposing that elite. The domination of the enforcement process by the petroleum industry, Coleman argues, is a function of that industry's greater economic resources and organizational superiority.

In "The Medicalization of Repression: Eugenics and Crime," Janet Katz and Charles Abel explore the political implications of modern biological explanations of criminality. They argue that, under the guise of permitting "science" to structure anticrime policy, such explanations divorce the issue of crime from larger social and political issues. By positing inherent inequalities among citizens these explanations invite state intrusion into private lives in the form of "medical treatment." Katz and Abel argue persuasively that this approach transfers control over the "criminal classes" from the state criminal justice system to nonstate entities like the medical establishment. Such groups thus develop a stake in legislation that defines and conceptualizes crime and specifies the correctional response to it. The authors illustrate their point through an examination of the eugenic sterilization movement in the first half of this century.

In the last article in chapter 1, "How We Got The Fourth Amendment Exclusionary Rule and Why We Need It," Yale Kamisar describes another form of conflict inherent in the structuring of a "crime problem," namely, the ongoing debate over the limits of procedural law. Procedural law puts checks on the power of the government's criminal justice agencies. It covers such phenomena as searches and arrests, the right to a fair and speedy trial, the right to counsel, admissibility of evidence, and the right to appeal. The public often views procedural laws as technicalities that permit criminals easy access to freedom. Indeed, the public sometimes seems willing to forego its rights in the fight against crime. The criminal justice system, as an obviously interested party, encourages this view to a great degree and lobbies the legislature to narrow procedural law and grant the system greater flexibility. Opponents respond, with history on their side, that flexibility always translates into abuse of citizens. Kamisar examines the exclusionary rule and demonstrates clearly that it is anything but a technicality.

Public Opinion

People's attitudes about and responses to crime stem partly from their own experience and partly from the accounts of others, transmitted, for example, through a political campaign or the media. The latter in particular often are singled out as a primary shaper of the public's views of crime. The news media frequently are accused of distorting the picture of crime in America. Critics contend that the media select crime news items for their sensationalistic features or for the ease with which they may be covered. This claim is sup-

ported to some degree by numerous studies showing that the news media give disproportionately high coverage to violent offenses.

It is misleading and unfair to suggest that the media have manufactured our "crime problem." However, they do respond to and stimulate fear of crime and therefore represent probably the single greatest influence upon our attitudes. Control of the information made available to the public represents, in many ways, control of the public.

One clear example of the link between the media and the public perception of crime is the stereotype held by most people about victimization of the elderly. Attacks on older persons evoke a particularly angry response in most of us. The media tend to focus on crimes against the elderly, and this focus may indeed precipitate occasional "crime waves" against the elderly, in the sense that the outraged response to one story sends the media searching for another sensational case. Before long, the juxtaposition in the news of representative offenses makes it appear that a crime wave against the elderly is in progress; a few crimes seem like many. In fact, victimization surveys consistently show the elderly to be among the least victimized groups in our society.

The readings in chapter 2, "Public Opinion," explore these themes. Joseph Sheley and Cindy Ashkin's "Crime, Crime News, and Crime Views" presents a comparison of New Orleans official crime statistics, television and newspaper crime stories, and public attitudes in three areas—crime trends, the relative frequency of occurrence of offenses, and the characteristics of offenders. The study indicates that the public misjudges crime trends, that considerably differing images of the relative frequency of offenses exist, but that there is more agreement regarding characteristics of offenders.

In their study of criminal victimization of the elderly, John Lindquist and Janice Duke examine an interesting paradox. Although the rate of victimization is lower than that for other age groups, the elderly nonetheless express high levels of fear of victimization. Lindquist and Duke hypothesize that this fear of victimization likely is legitimate. To the extent that the elderly put themselves "at risk" of victimization, they will be victimized. On the whole, the elderly do not put themselves at risk, limiting their exposure to potential crime situations—by venturing from their homes only at certain hours, for example. The result of this lowered exposure is a lower victimization rate which, ironically, makes their crime fears appear overstated.

The last selection in chapter 2 presents the results of a national survey on the seriousness of various offenses. As expected, the overall pattern of severity scores indicates that people regard violent offenses as more serious than property crimes. They also tend to consider the relationship of the victim to the offender in evaluating the seriousness of offenses.

A number of ratings in this survey, however, reflect an interesting mix of opinions on morality, status, and economic class. The public considers it a more serious crime if a husband kills his wife than if a wife kills her husband. A person illegally receiving welfare checks is viewed as more troublesome than one who cheats the government out of $10,000 in taxes. Refusal to hire a qualified person because of that person's race receives the same score as procuring customers for prostitutes. Knowingly buying stolen goods is viewed as far less serious than selling stolen goods. Some forms of white-collar crime are considered far more serious than others.

What we can gather from such comparisons is that morality does not exist in a vacuum. Our views of right and wrong shift over time along with the political and economic structures to which they are tied. This becomes clear if we ask ourselves how people fifty years ago might have rated the seriousness of homosexuality and industrial pollution.

Crime Statistics

For most people, the "reality" of crime consists in great part of news media summaries of official crime statistics. Most of these statistics are for the

FBI Index Offenses of homicide, rape, robbery, assault burglary, larceny, motor vehicle theft, and arson. In reviewing such data, we must remember that crime statistics are *social constructs,* the result of social activity whereby organizations and their workers use their discretion in deciding on their various approaches to crime. Crime rates are *produced* through the interaction of police department policy on crime classification, the crime-reporting behavior of police officers in the field, and the crime-reporting behavior of citizens. The end product of the use of discretion by all these "agents" is the crime statistic. Logically, to the extent that discretion is used otherwise, the picture of crime will change.

Research indicates that police departments vary in the expertise with which they collect and assemble crime information. Studies also show that departments have considerable latitude in crime classification. For example, a physical encounter between two citizens may be labeled an attempted murder, an assault, or a disturbance of the peace—or it might not be reported at all. This latitude, inherent in the legal definitions of offenses, is made more problematic by the fact that the reporting and classifying of crimes always occurs in a political setting in which the jobs of public administrators are on the line. To complicate matters more, it is clear that public willingness to report crimes varies from place to place and time to time. We can never be certain whether a shift in the crime rate represents a change in criminal behavior or in citizens' attitude toward reporting crime. In short, we have little reason to trust official crime statistics.

In an effort to shed some light on the reliability of official crime statistics, social scientists have developed victimization survey techniques. In victimization surveys, researchers interview systematically a large sample of the population to discover how many crimes have been committed against them. As a source of crime statistics the victimization survey has two advantages over police files. First, researchers conducting a victimization survey actively seek out information about crime rather than wait for victims to report crimes. Second, the sample used in the victimization survey is more representative than that reflected in crime reports from police files. Thus, normally unreported crime seems more likely to be discovered through the victimization survey.

The first selection in chapter 3 is extracted from the Bureau of Justice Statistics' *Report to the Nation on Crime and Justice.* This report permits us to compare the two standard indicators of crime at the national level and highlights the strengths and weaknesses of each. The two data sources give quite different depictions of crime trends in recent years. Some of this difference is a matter of measurement; some reflects the superiority of the victimization survey. This selection also gives us a picture of the distribution of crime across regions and population centers in the United States. It concludes with an examination of citizen crime-reporting patterns.

Linda Williams pursues the issue of citizen crime reporting in "The Classic Rape: When Do Victims Report?" She finds that victims of violent attacks by strangers are more likely to report their rapes to the police than are women who are raped in a social situation by men they know. To the extent that a high degree of force is used by the rapist, that serious injuries occur, and that medical treatment is sought, reporting levels increase. Williams concludes that women tend to blame themselves for a rape to the extent that the crime deviates from the classic attack by a stranger. The greater the self-blame, the less likely the victim is to report the rape.

Finally, in "Unintended Effects of Police Decisions to Actively Enforce Laws," Joseph Sheley and John Hanlon explore the phenomenon of police departments' inadvertently driving up their city's crime rates by a change in their enforcement policy. The authors describe a police crackdown on heroin trafficking that failed to produce a great increase in heroin arrests but had other, unintended effects. Arrests for possession of stolen goods and illegal weapons rose as police activity increased. Prosti-

tution arrests declined as plainclothes officers moved over to the drug unit. Arrests for disturbing the peace increased as uniformed officers employed this charge to arrest prostitutes. Most important, arrests for possession of marijuana increased 228 percent. Though there were no apparent changes in the size and composition of the city's population of marijuana users, the police antiheroin campaign produced a "marijuana problem" for the city.

1 / Making Laws

LAW AND POWER: THE SHERMAN ANTITRUST ACT AND ITS ENFORCEMENT IN THE PETROLEUM INDUSTRY

James William Coleman

Whose interests does the law serve? What are the mechanisms by which those interests exercise their control? These are the central questions in the sociology of law. The earliest sociological analyses saw the law as a reflection of collective social needs, standing well above the struggles of particularistic interests. The work of criminologists such as Chambliss (1964, 1969), Chambliss and Seidman (1982), Hall (1939), Pepinsky (1976), Quinney (1969, 1974), and Turk (1976) brought the legal system back into the arena of social conflict by arguing that legal norms reflect the configurations of social power, and that control of the legal apparatus is itself an important tool for perpetuating and expanding that power. While this newer perspective has grown increasingly influential in the sociology of law, major disagreements remain about who wields the power to shape the legal system. Chambliss and other elite theorists see legal norms as a reflection of the interests of a small but enormously powerful economic elite:

> *Conventional myths notwithstanding, the history of the criminal law is* not *a history of public opinion or public interest being reflected in criminal law legislation. On the contrary, the history of criminal law is everywhere the history of legislation and appellate-court decisions which in effect (if not in intent) reflect the interests of the economic elites who control the production and distribution of the major resources of society (Chambliss, 1973:430).*

Other sociologists, while still recognizing the key role political power plays in the creation of legal norms, see that power as being much more pluralistically distributed. In their view, the legal process is not dominated by a single power elite.

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But instead, it is shaped by a struggle among many competing interest groups in which the best organized, most motivated, and most politically active are likely to prevail (see, for example, Friedman, 1977).

Antitrust legislation occupies a central place in this debate, because it is often cited by both pluralist and elite theorists to support their claims. The former use antitrust laws as an example of the restraints that popular mass movements can place on even the most powerful corporations. The latter cite the same laws as examples of empty symbolism intended to placate popular discontent without threatening elite interests.

My examination of this issue begins with an analysis of the social forces that led to the enactment of the Sherman Antitrust Act of 1890, clearly the single most important piece of American antitrust legislation. Although the debate between the pluralists and the elitist theorists has focused heavily on such struggles over new legislation, this kind of analysis can yield only partial understanding of the issues involved. Equal attention must be given to the implementation of the laws. Indeed, legislation and enforcement are two phases of the same struggle. Space limitations preclude analysis of the entire history of antitrust enforcement in the United States. Instead, I will focus on a single key industry—petroleum—and the four major efforts to bring antitrust action against it. The petroleum industry was an obvious choice, not only because the oil monopoly was one of the original targets of the antitrust movement, but also because of its continuing economic importance. In contrast, the antitrust movement's other principal target, the railroad industry, has declined to a secondary position in the contemporary economy.

Sociological analysis must go beyond a simple description of the groups that dominate the legal process to explain how and why they are able to do so. The critical question in this study then is why did the petroleum industry ultimately have the power to maintain its oligopoly despite organized popular opposition and the enactment of antitrust legislation? To address this question, I will examine the relative strengths and weaknesses of the major participants in the antitrust struggle and then present a more detailed examination of the specific techniques used by the petroleum industry to exercise and maintain its power.

Method

Historians have given considerable attention to the origins of the Sherman Antitrust Act of 1890. However, debate continues over the key issue of whether the Sherman Act was intended as a serious effort at reform or as a means to head off reform. A simple review of this literature soon leads into a thicket of conflicting claims and interpretations. I therefore attempted to separate, in so far as possible, unquestioned matters of historical record from interpretations and judgments of individual historians, and to use the former in constructing the inductive arguments presented in the following sections. Especially valuable in this endeavor were the work of the Swedish scholar Hans B. Thorelli (1955) and the more recent analysis of the origins of the Sherman Act by Albert McCormick (1979).

The history of antitrust enforcement in the petroleum industry presents a different set of problems. Until recently, little attention had been paid to this important issue. The "oil crisis" of the early 1970s seems to have rekindled interest in the petroleum industry, and numerous works have since been published on the subject. Although all aspects of the efforts to bring antitrust actions against this industry still have not been adequately explored, many useful works are available including Blair's (1976) general study of the oil industry, Bringhurst's (1979) work on the early cases against Standard Oil, and Kaufman's (1978) study of the oil cartel case. Moreover, while many areas of disagreement remain among these and other students of the petroleum industry, my conclusions about antitrust enforcement are clearly less problematic than those concerning the origins of the

Sherman Antitrust Act itself. The public record of the antitrust cases brought against big oil leaves little room for doubt about whose interests ultimately prevailed in the enforcement process.

The Sherman Antitrust Act of 1890

From July 1888, when Senator John Sherman introduced his antitrust bill, until July 1890, when President Benjamin Harrison signed the Sherman Act into law, the most striking characteristic of the Congressional antitrust deliberations was the general acceptance of the need for some legislation. Although 44 different antitrust proposals were introduced in Congress during this period (McCormick, 1979), the Congressional Record shows public deliberations were primarily concerned with the form and content of the legislation rather than whether such legislation should be enacted (Thorelli, 1955:164–232). Indeed, some historians take the almost complete lack of any explicitly stated objection to the purposes of antitrust legislation from a Congress otherwise noted for its largess toward big business as evidence that the Sherman Act was a symbolic gesture of no practical economic significance (see, Beard and Beard, 1930:327; Morison and Commanger, 1951:144; Solberg, 1976:48–49). A more convincing interpretation of these facts, however, is that the ideological appeal of antitrust legislation and the political forces demanding its enactment were too strong for the members of the 51st Congress to ignore.

The origins of antitrust legislation can be understood only in the context of the profound social and economic changes that were transforming America in the late nineteenth century. The old middle class of independent farmers and small business people was in decline as the growth of big business and rapid industrialization eroded its traditional political power and economic base. Fundamental changes in the economics of agricultural production were spurred by the rapid growth of the railroads as vast new lands were opened to cultivation in the West. Farmers were no longer concerned primarily with growing food for their own subsistence, but had become small capitalists growing cash crops for market. This period was an especially difficult one for the American farmer, because an international recession and the new western lands drove down the price of agricultural commodities, while the price of industrial goods upon which farmers had come to depend remained high. As economic conditions worsened, urban migration drained away the rural population and agrarian discontent intensified.

Although farmers were often confused about the exact mechanisms involved, they recognized that they were paying the price for industrialization. High tariff barriers provided a sheltered environment for American industrial growth by excluding international competition that would have meant lower prices for the manufactured goods farmers purchased. Since American manufactured goods were not yet competitive on the world market, capital needed to purchase foreign technology and equipment was accumulated by selling agricultural products cheaply (see Mills, 1951:13–33). Thus, as in virtually all industrializing countries, the economic surplus generated by American farmers was being used to finance the economic transformation that ultimately put the farmers in a secondary economic position.

Railroads were the first targets of discontent among small farmers because they charged exorbitant rates to ship grain to market, while granting rebates and other special favors to big corporations. Grain buyers and middlemen were also targets, as were grain storage facilities that were often owned by the railroads. Several independent, reform, and antimonopoly parties sprang up to press the farmers' cause. Probably the most successful of these pressure groups was the Grange, which served both social and political functions for the farmers. These reformers eventually succeeded in forcing regulatory laws through several midwestern state legislatures, but most of this legislation was struck down by the conservative courts (Faulkner, 1959:67; Thorelli, 1955:58–59). As their frustration grew, farmers began turning to